

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

GREGORY DAVIS

Plaintiff,

v.

**Civil Action no. 1:06cv155
(Judge Keeley)**

**UK CHANDLER MEDICAL CENTER,
COMMONWEALTH OF KENTUCKY PROSECUTOR OFFICE,
UNKNOWN EMPLOYEES OF BOTH AGENCIES,**

Defendants.

**REPORT AND RECOMMENDATION
THAT CASE BE DISMISSED WITHOUT PREJUDICE**

On October 16, 2006, the *pro se* plaintiff, Gregory Davis, initiated this case by filing a civil rights complaint and a Motion for Leave to Proceed in forma pauperis. However, because the Motion did not provide the necessary information from which the Court could make a ruling the Clerk sent the Plaintiff a Notice of Deficient Pleading on October 16, 2006, which advised the Plaintiff that he must either pay the \$350.00 filing fee or submit this Court's form Application to Proceed Without Prepayment of Fees, Consent to Collection of Fees and Prisoner Trust Account Report. The forms were sent to the Plaintiff with the Notice which specifically advised the Plaintiff that his failure to comply within 30 days could result in dismissal of his case without prejudice. As of May 3, 2007, the Plaintiff has not paid the fee nor have the required forms been filed.

RECOMMENDATION

In consideration of the foregoing, it is recommended that the complaint be **DISMISSED** without prejudice.

Any party may filed within ten (10) days of the date of this Recommendation, with the Clerk of the Court, written objections identifying the portions of the Recommendation to which objections

are made, and the basis for such objections. A copy of such objections should also be submitted to the Honorable Irene M. Keeley, United States District Judge. Failure to timely file objections to the Recommendation set forth above will result in waiver of the right to appeal from a judgment of this Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841 (4th Cir 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984); cert. denied, 467 U.S. 1208 (1984).

The Clerk of the Court is directed to mail a copy of this Report and Recommendation to the *pro se* petitioner and counsel or record, as applicable.

DATED: May 3, 2007

/s/ James E. Seibert
JAMES E. SEIBERT
UNITED STATES MAGISTRATE JUDGE